

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MUSTAFA NAQIB,)	CASE NO.3:05CV7010
)	
Plaintiff,)	JUDGE CHRISTOPHER A. BOYKO
)	
Vs.)	
)	
JOHN ASHCROFT, ET AL.,)	OPINION AND ORDER
)	
Defendant.)	

CHRISTOPHER A. BOYKO, J:

This matter is before the Court on the Report and Recommendation of the Magistrate Judge that petitioner Mustafa Naqib's petition for writ of habeas corpus be denied as moot. For the following reasons, the Court returns the Magistrate Judge's Report and Recommendation for further analysis.

Mustafa Naqib, a non-citizen of the United States, was issued an order of removal on February 6, 2002. The removal order was affirmed by the Board of Immigration Appeals on July 22, 2003. The order of removal was subsequently affirmed on December 15, 2003 and Petitioner's motion for *en banc* hearing was denied on April 19, 2004. Mr. Naqib was then detained, pending removal on May 24, 2004. On January 11, 2005, Mr. Naqib filed the above petition seeking release, as he had been detained for a period exceeding six months. Petitioner's petition seeks immediate release from detention, preliminary and permanent injunction against further detention, costs and damages under the Equal Access to Justice Act and an order vacating;

the removal order and a stay of removal.

On February 16, 2005, Petitioner was removed from the United States. Citing *Enazeh v. Davis*, 107 F. Appx. 489, 491 (6th Cir. 2001), the Magistrate Judge recommended Petitioner's petition be denied as moot in light of his removal. While this Court agrees that some of Petitioner's requests for relief are rendered moot by his subsequent removal, the Court is concerned that Petitioner's request for permanent injunctive relief, vacation of his removal order and damages may not be rendered moot by his removal.

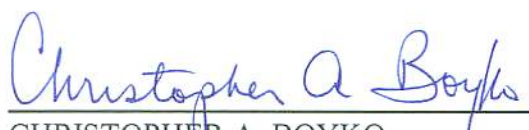
The Magistrate Judge shall consider whether this Court has jurisdiction to review the removal order in light of *Head v. Crutchfield*, No. 2:06CV 12231, 2006 WL 1851268 (E.D. Mich. June 30, 2006) (holding pre-REAL ID ACT of 2005 (RIDA) habeas petitions challenging removal orders "should be transferred to the appropriate court of appeals"). Should the Magistrate Judge determine this Court does have jurisdiction, then the Magistrate Judge shall consider Petitioner's requests for relief in light of the Sixth Circuit holding in *Zundel v. Berrong, et al.*, 106 Fed Appx. 331 (6th Cir. 2004) (holding requests for permanent relief in a habeas petitioner not rendered moot by subsequent removal when there are continuing "collateral consequences"). The Court notes the government's brief failed to supply the Court with a response sufficient to provide guidance on these issues.

Therefore, the Court returns the Report and Recommendation of the Magistrate Judge for further review.

IT IS SO ORDERED.

Date

9/22/06


CHRISTOPHER A. BOYKO
United States District Judge